

IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

FILED

DEC 09 2004

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Plaintiff,)

v.)

Case No. 03-02-2620

LANA DAWN BANKS, R.C.,)
LICENSE NO. 875,)

Defendant.)

COMPLAINT

COMES NOW the Plaintiff, the State of Oklahoma ex rel. the Oklahoma State Board of Medical Licensure and Supervision (the "Board"), by and through its attorney, Elizabeth A. Scott, Assistant Attorney General, and for its Complaint against the Defendant, Lana Dawn Banks, R.C., alleges and states as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of respiratory care practitioners in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.* and 2026 *et seq.*

2. Defendant, Lana Dawn Banks, R.C., holds Oklahoma respiratory care license no. 875, and is authorized to practice as a respiratory care practitioner under the terms of a Final Order of Probation entered November 20, 2003, with a five (5) year term of probation.

3. The Final Order of Probation sets forth Defendant's terms of probation and provides that Defendant shall be on probation as follows:

Defendant will have the affirmative duty not to ingest any substance which will cause a body fluid sample to test positive for prohibited substances.

Defendant will keep current payment of all assessment by the Oklahoma State Board of Medical Licensure and Supervision for prosecution, investigation and monitoring of her case, which shall include a one hundred dollar (\$100.00) per month probation monitoring fee.

- (P) Defendant shall make herself available for one or more personal appearances before the Board or its designee upon request.
- (R) Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify Defendant's license after due notice and hearing.

4. The provisions cited above have not been modified or deleted but remain in full force and effect as terms and conditions of Defendant's probation.

5. On or about September 9, 2004, Defendant was scheduled to meet with Tom Sosbee, Compliance and Education Coordinator for the Board. At that time, Defendant contacted Mr. Sosbee and cancelled the appointment, saying that her mother-in-law had died. Mr. Sosbee rescheduled the meeting.

6. On or about November 1, 2004, Defendant was scheduled to meet with Mr. Sosbee. At that time, Defendant's sister contacted Mr. Sosbee and cancelled the meeting, claiming that Defendant could not come because she was in Dallas, Texas and could not drive because of night blindness. Mr. Sosbee again re-scheduled the meeting.

7. On or about November 15, 2004, Defendant was scheduled to meet with Mr. Sosbee. At that time, Defendant did not appear but instead left a message on Mr. Sosbee's voicemail and advised him that she wanted to talk on the telephone, she was not working, and that her daughter had Crohn's disease.

8. Since the entry of her Final Order of Probation, Defendant has failed to make any of the required payments to the Board, and as of November 15, 2004, owed \$1,954.58.

9. When Defendant failed to appear for her third scheduled probation meeting, Mr. Sosbee contacted her employer, Midwest City Regional Hospital and learned that Defendant had recently been fired for repeated absences. Defendant's supervisor reported that during her exit interview, Defendant reeked of alcohol and had bloodshot eyes and a disheveled appearance.

10. Defendant is guilty of unprofessional conduct in that she:

- A. Is unfit or incompetent by reason of negligence, habits, or other causes of incompetency in violation of 59 O.S. §2040(2).
- B. Is habitually intemperate in the use of alcoholic beverages in violation of 59 O.S. §2040(3).
- C. Is habitually intemperate or is addicted to any drug, chemical or substance which could result in behavior that interferes with the practice of

respiratory care and the responsibilities of the licensee in violation of OAC 435:45-5-3(1).

- D. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action, stipulation, agreement or order of the Board in violation of OAC 435:45-5-3(24).

Conclusion

WHEREFORE, the Plaintiff respectfully requests that the Board conduct a hearing, and, upon proof of the allegations contained herein, impose such disciplinary action as authorized by law, up to and including suspension or revocation and any other appropriate action with respect to Defendant's respiratory care practitioner license, and an assessment of costs and attorney's fees incurred in this action as provided by law.

Respectfully submitted,



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